City of Bellevue
Development Services Department
Land Use Staff Report

Proposal Name:	**Newport Shores - Zhang**
Proposal Address:	**52 Skagit Ky**
Proposal Description:	Proposal to construct a 3,700 square-foot single-family residence within the buffer and structure setback of Coal Creek, a Type-F stream. The proposal includes 4,712 square feet of buffer mitigation with native stream buffer planting. The proposal is supported by a Critical Areas Report and geotechnical report.
File Number:	**18-103224-LO**
Applicant:	**Neil Jorgensen, J3 Architects LLC**
Decisions Included:	**Process II**
Planner:	**David Wong**, Land Use Planner
State Environmental Policy Act Threshold Determination:	**Exempt**
Department Decision:	**Approval with Conditions**

Elizabeth Stead, Land Use Director
Development Services Department

Application Date:	January 16, 2018
Notice of Application Publication Date:	March 8, 2018
Decision Publication Date:	March 21, 2019
Appeal Deadline:	April 4, 2019

For information on how to appeal a proposal, visit Development Services Center at City Hall or call (425) 452-6800. Comments on State Environmental Policy Act (SEPA) Determinations can be made with or without appealing the proposal within the noted comment period for a SEPA Determination. Appeal of the Decision must be received in the City's Clerk's Office by 5 PM on the date noted for appeal of the decision.

CONTENTS

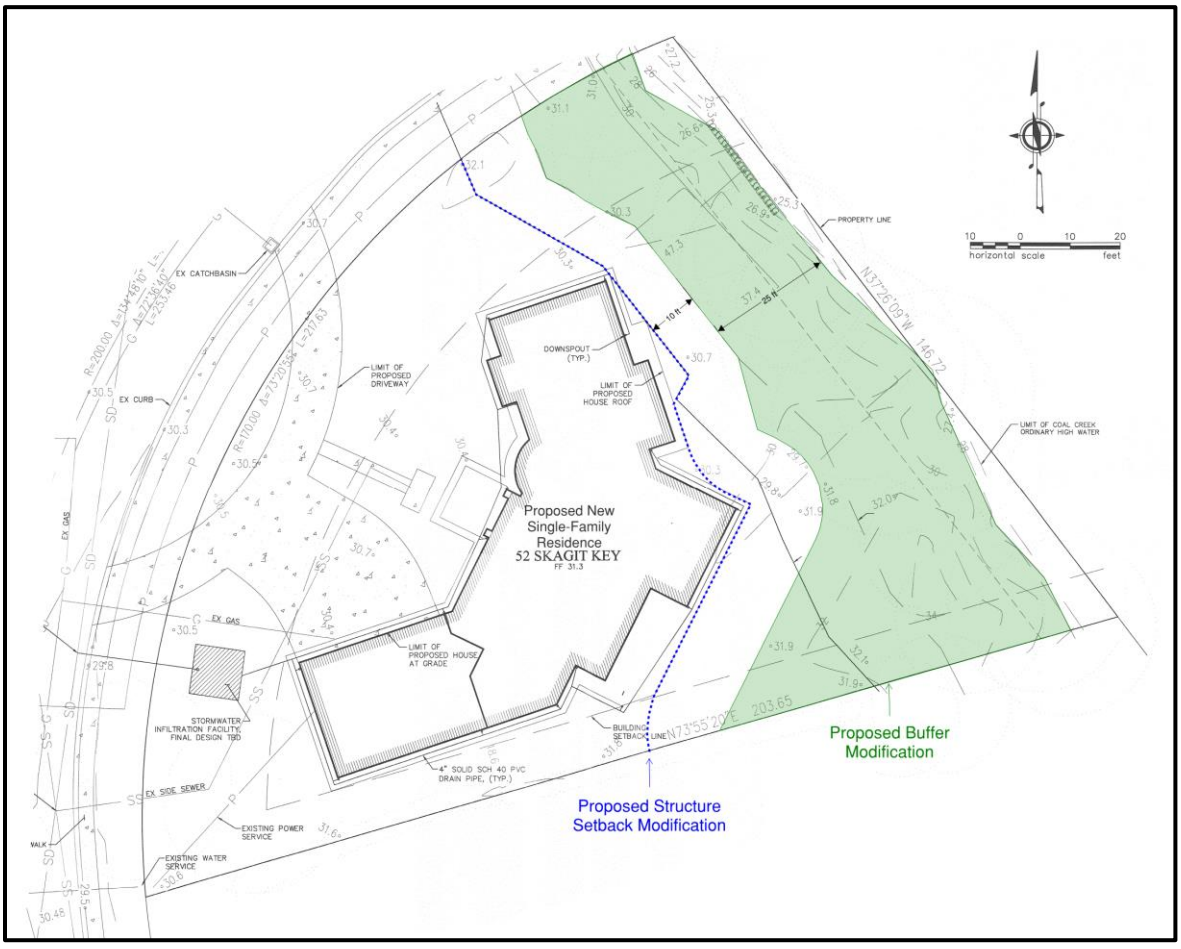
Attachments

1. Site Plan
2. Critical Areas Report – Acre Environmental Consulting (In-File)

I. Request & Review Process

The applicant has requested a Critical Areas Land Use Permit review of a proposal to construct a 3,700 square-foot single-family residence within the Newport Shores neighborhood. Coal Creek, a Type-F stream is located adjacent to the subject property. Type- streams require a 50-foot buffer and a 50-foot structure setback per LUC 20.25H.075.C.1.a.ii and D.2.a.ii. The proposed residence is located within the code required stream buffer and requests a permanent stream buffer modification of approximately 2,135 square feet. The proposed minimum buffer is 25-feet. In addition to the buffer modification request, the proposal also requests modification to the structure setback associated with the Type-F stream to a minimum distance of 10 feet. The proposal includes approximately 4,712 square feet of stream buffer mitigation planting to improve degraded buffer conditions that are currently present. See Figure 1 for proposed site conditions.

Figure 1



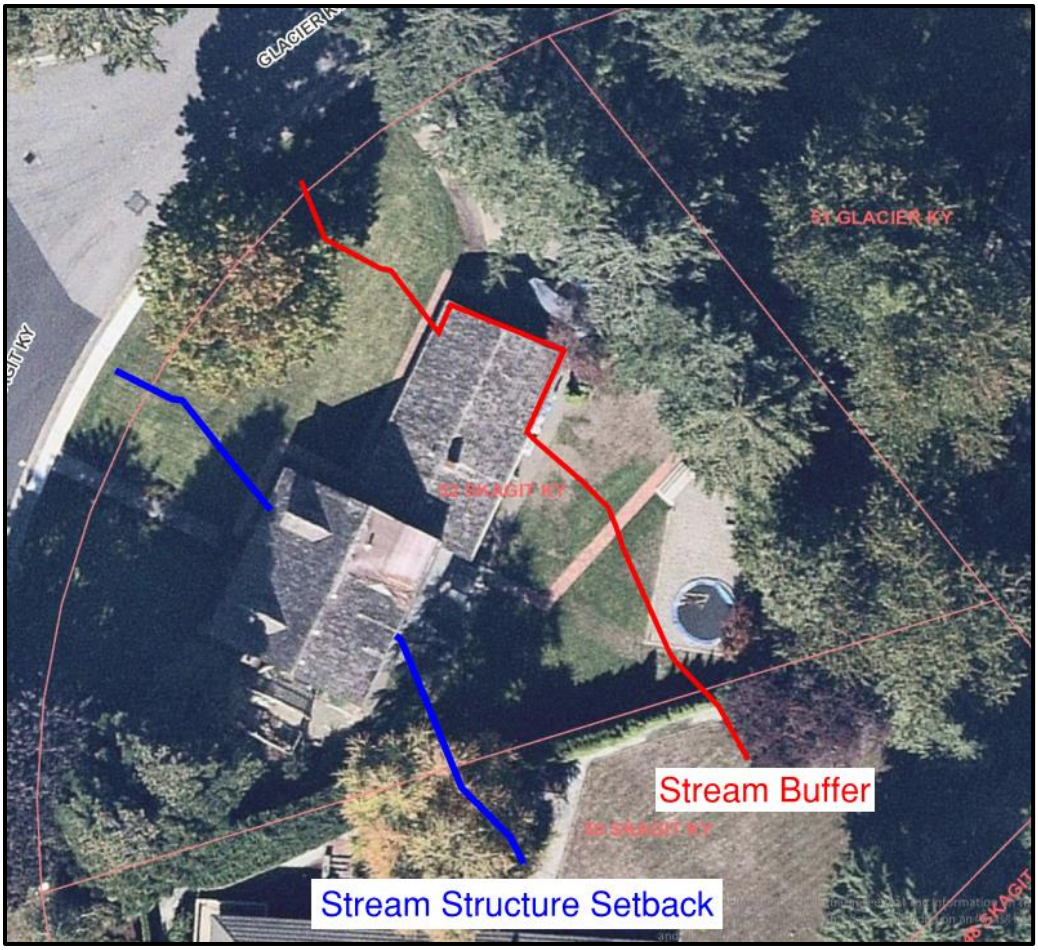
Proposals to permanently modify a stream buffer and/or structure setback require the approval of a Critical Areas Land Use Permit (CALUP) with Critical Areas Report (CAR) and are subject to the requirements of LUC 20.25H and 20.30P, including but not limited to those sections governing streams, Critical Areas Reports (CAR), and restoration.

II. Site Context & Description

A. Site Context

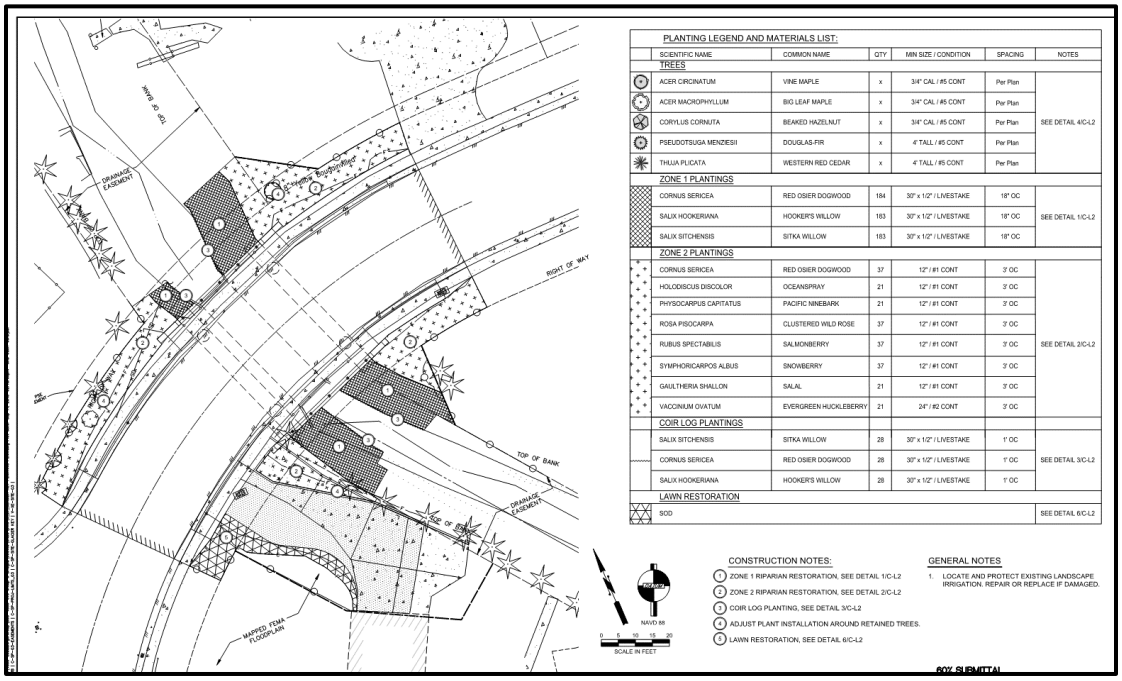
The site is zoned R-2.5 (Single-Family Residential) and consists of a single-family residence, driveway, and patio. Coal Creek, a fish-bearing stream, and associated floodplain runs parallel and adjacent to the site on the east property line. Portions of Coal Creek's buffer contains mature Douglas-fir (*Pseudotsuga menziesii*) trees and these trees are proposed to be retained. A majority of the site is covered by non-native grass, ornamental shrubs, and invasive species, and degraded conditions because of the existing driveway, house and landscaping, have been identified within the floodplain, stream buffer, and stream buffer structure setback. The soils of this site have been identified as Briscot silt loam (Br) according mapping provided by the Natural Resources Conservation Service (NRCS). See Figure 2 below for the current site**.**

Figure 2



The City of Bellevue's Utilities Department is replacing the stream culvert under Glacier Key. A portion of this proposed work is located within an area subject to this application and proposed mitigation. The applicant will need to revise the conceptual mitigation plan contained within the CAR (Attachment 2) to exclude the area impacted by the culvert replacement work.

Figure 3



B. Zoning

The property is zoned R-2.5 (Single-Family Residential) and is located within the Factoria subarea. See Figure 4 for zoning map and Figure 5 for subarea information.

Figure 4

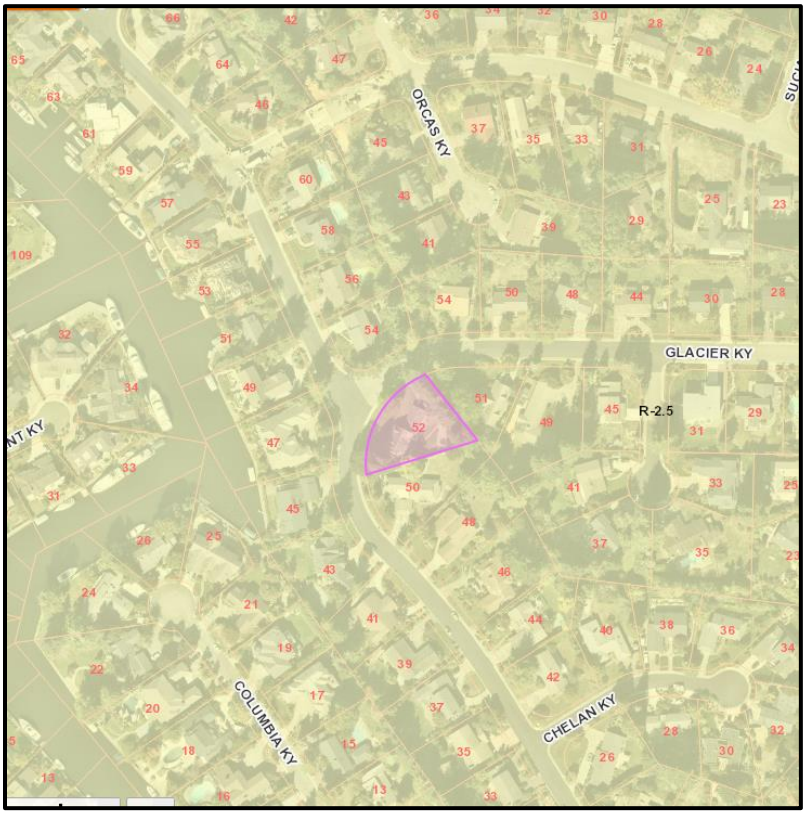
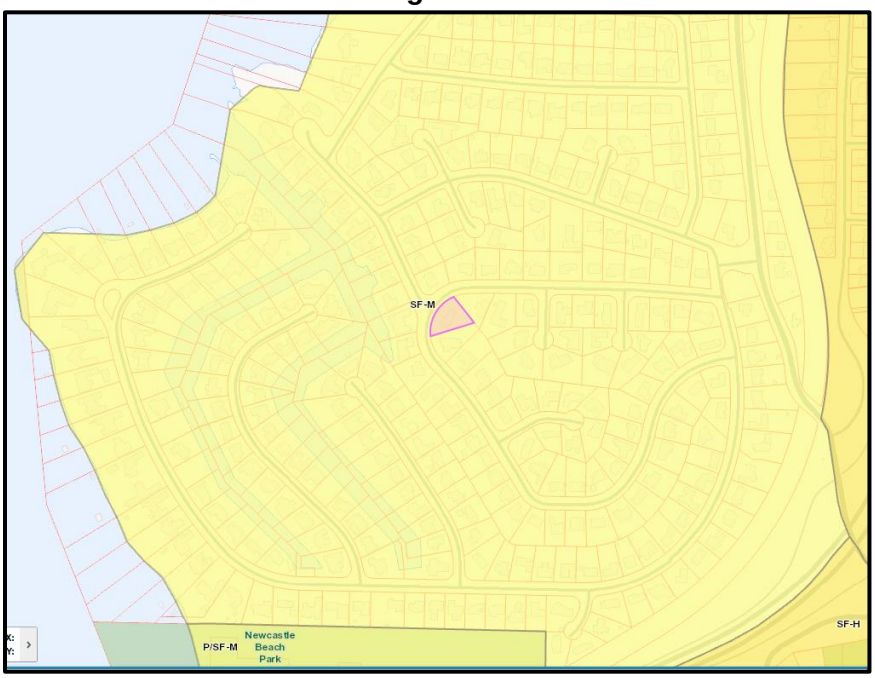


Figure 5

C. Land Use Context

The site is located within the Newport Shores neighborhood and has a Comprehensive Plan designation of SF-M, or Single-Family Medium Density. The site is adjacent to residential uses on all sides and is within 200 feet of the Newport Shores canal system. Newcastle Beach Park is located approximately 1,350 feet to the south and the SE 40th Street Boat Ramp is located approximately 1,525 feet to the north. See Figure 6 for Comprehensive Plan designation.

Figure 6



D. Critical Areas Functions and Values

i. Streams and Riparian Areas

Most of the elements necessary for a healthy aquatic environment rely on processes sustained by dynamic interaction between the stream and the adjacent riparian area (Naiman et al., 1992). Riparian vegetation in floodplains and along stream banks provides a buffer to help mitigate the impacts of urbanization (Finkenbine et al., 2000 in Bolton and Shellberg, 2001). Riparian areas support healthy stream conditions.

Riparian vegetation, particularly forested riparian areas, affect water temperature by providing shade to reduce solar exposure and regulate high ambient air temperatures, slowing or preventing increases in water temperature (Brazier and Brown, 1973; Corbett and Lynch, 1985).
Upland and wetland riparian areas retain sediments, nutrients, pesticides, pathogens, and other pollutants that may be present in runoff, protecting water quality in streams (Ecology, 2001; City of Portland 2001). The roots of riparian plants also hold soil and prevent erosion and sedimentation that may affect spawning success or other behaviors, such as feeding.

Both upland and wetland riparian areas reduce the effects of flood flows. Riparian areas and wetlands reduce and desynchronize peak crests and flow rates of floods (Novitzki, 1979; Verry and Boelter, 1979 in Mitsch and Gosselink, 1993). Upland and wetland areas can infiltrate floodflows, which in turn, are released to the stream as baseflow

Stream riparian areas, or buffers, can be a significant factor in determining the quality of wildlife habitat. For example, buffers comprised of native vegetation with multi-canopy structure, snags, and down logs provide habitat for the greatest range of wildlife species (McMillan, 2000). Vegetated riparian areas also provide a source of large woody debris that helps create and maintain diverse in-stream habitat, as well as create woody debris jams that store sediments and moderate flood velocities.

Sparsely vegetated or vegetated buffers with non-native species may not perform the needed functions of stream buffers. In cases where the buffer is not well vegetated, it is necessary to either increase the buffer width or require that the standard buffer width be restored or revegetated (May 2003). Until the newly planted buffer is established the near term goals for buffer functions may not be attained.

Riparian areas often have shallow groundwater tables, as well as areas where groundwater and surface waters interact. Groundwater flows out of riparian wetlands, seeps, and springs to support stream baseflows. Surface water that flows into riparian areas during floods or as direct precipitation infiltrates into groundwater in riparian areas and is stored for later discharge to the stream (Ecology, 2001; City of Portland, 2001).

ii. Habitat Associated with Species of Local Importance

Urbanization, the increase in human settlement density and associated intensification of land use, has a profound and lasting effect on the natural environment and wildlife habitat (McKinney 2002, Blair 2004, Marzluff 2005, Munns 2006), is a major cause of native species local extinctions (Czech et al 2000), and is likely to become the primary cause of extinctions in the coming century (Marzluff et al. 2001a). Cities are typically located along rivers, on coastlines, or near large bodies of water. The associated floodplains and riparian systems make up a relatively small percentage of land cover in the western United States, yet they provide habitat for rich wildlife communities (Knopf et al. 1988), which in turn provide a source for urban habitat patches or reserves. Consequently, urban areas can support rich wildlife communities. In fact, species richness peaks for some groups, including songbirds, at an intermediate level of development (Blair 1999, Marzluff 2005). Protected wild areas alone cannot be depended on to conserve wildlife species. Impacts from catastrophic events, environmental changes, and evolutionary processes (genetic drift, inbreeding, colonization) can be magnified when a taxonomic group or unit is confined to a specific area, and no one area or group of areas is likely to support the biological processes necessary to maintain biodiversity over a range of geographic scales (Shaughnessy and O'Neil 2001). As well, typological approaches to taxonomy or the use of indicators present the risk that evolutionary potential will be lost when depending on reserves for preservation (Rojas 2007). Urban habitat is a vital link in the process of wildlife conservation in the U.S.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The site is located within the R-2.5 zoning district. All zoning dimensional standards will be confirmed during review of the required building permit.

Basic Information			
Zoning District	R-2.5		
Gross Lot Area	18,565 square feet (0.43 acres)		
Dimensional Requirement	**Standard**	**Proposed**	**Complies?**
Front Yard Structure Setback (feet)	20	20	Complies
Rear Yard Structure Setback (feet)	25	40	Complies
Side Yard Structure Setback (feet)	5	10	Complies

Maximum Lot Coverage (percent)	35%	34.5%	Complies
Maximum Impervious Surface (percent)	45/50	32.5%	Complies
Minimum Greenspace (percent)	50	81%	Complies

B. Consistency with Land Use Code Critical Areas Performance Standards:

i. Stream Performance Standards – 20.25H.080

Development on sites with a stream or stream critical area buffer shall incorporate the following performance standards, as applicable:

1. Lights shall be directed away from the stream.

The proposed single-family residence did not include plans to direct outdoor lighting toward the stream or stream buffer. Any outdoor lighting proposed will need to adhere to the requirements of this section. See Section X for Conditions of Approval.

2. Activity that generates noise such as parking lots, generators, and residential uses, shall be located away from the stream, or any noise shall be minimized through use of design and insulation techniques.

No new sources of noise, beyond what already exists on-site, are proposed or expected. Native planting within the restoration area will help to provide sound buffer for the stream from existing noise sources.

3. Toxic runoff from new impervious area shall be routed away from the stream.

No toxic runoff is proposed to be directed toward the stream.

4. Treated water may be allowed to enter the stream critical area buffer.

No treated water is proposed to be discharged within the stream buffer.

5. The outer edge of the stream critical area shall be planted with dense vegetation to limit pet or human use.

The proposed mitigation plan will provide dense, native planting at the edge of and within the stream buffer to off-set the impacts of the single-family development. Native trees and some native vegetation exist within the stream buffer, however the critical areas report (Attachment 2) has documented additional degraded conditions, mostly due to the existence of invasive species, maintained lawn, and existing driveway within the proposed mitigation

area. Invasive species, non-native grasses, and other permanent improvements will be removed, and the mitigation area will be required to include native vegetation at densities specified in the City's Critical Areas Handbook for riparian and stream critical areas. The conceptual mitigation plan submitted with this application shall be modified to meet these standards and to reflect work associated with the City's culvert replacement work on Glacier Key. See Section X for Conditions of Approval.

6. **Use of pesticides, insecticides, and fertilizers within 150 feet of the edge of the stream buffer shall be in accordance with the City of Bellevue's "Environmental Best Management Practices," now or as hereafter amended.**
   No pesticides, insecticides, or fertilizers are proposed to be used within 150 feet of the edge of the stream buffer. The applicant has proposed to record an affidavit to the property title in order to enforce compliance of this provision. See Section X for Conditions of Approval.

C. Consistency with Critical Areas Report LUC 20.25.230.
The applicant supplied a complete critical areas report prepared by Altmann & Oliver, a qualified professional (Attachment 2). The report met the minimum requirements in LUC 20.25H.250.

IV. Public Notice and Comment

Application Date:	January 16, 2018
Public Notice (500 feet):	March 8, 2018
Minimum Comment Period:	March 22, 2018

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on September 7, 2017. It was mailed to property owners within 500 feet of the project site. One (1) comment has been received from the public as of the writing of this staff report.

Summary of Comment:
The Newport Shores HOA has concerns about this design and its conformance with neighborhood covenants and may not grant approval of this design to be constructed.

Comment Response:
The Critical Areas Land Use Permit application review is a review of required Land Use entitlements needed when development is proposed to be located within the critical area buffer and structure setback and does not constitute a review and approval of documents for construction purposes. The applicant will be responsible to obtain construction permits from the City of Bellevue and any approvals necessary outside of City of Bellevue jurisdiction prior to commencing development work on-site. The City of Bellevue does not review proposals for conformance with neighborhood covenants.

V. Summary of Technical Reviews

Clearing and Grading:
The Clearing and Grading Division of the Development Services Department has reviewed the proposed development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development.

Utilities:
City of Bellevue Utilities staff has reviewed the proposed development for compliance with City of Bellevue Utilities codes and standards. Utilities staff found no issues with the proposed development.

VI. State Environmental Policy Act (SEPA)

The proposal is exempt from SEPA review, per WAC 197-11-800 and BCC 22.02.032. Construction of a single-family residence is a categorical exemption.

VII. Changes to Proposal as a Result of City Review

No significant changes were requested by City staff during the review of this proposal.

VIII. Decision Criteria

A. Critical Areas Report Decision Criteria-Proposals to Reduce Regulated Critical Area Buffer LUC 20.25H.255.

The Director may approve, or approve with modifications, a proposal to reduce the regulated critical area buffer on a site where the applicant demonstrates:

1. The proposal includes plans for restoration of degraded critical area or critical area buffer functions which demonstrate a net gain in overall critical area or critical area buffer functions;

Finding: The proposal includes a mitigation plan that includes native planting within the stream buffer. The CAR (Attachment 2) identifies and documents the degraded conditions on-site, both in the area of where the proposed single-family residence is and where the proposed mitigation planting will occur. With the installation of native vegetation particularly evergreen trees, net improvement is expected, primarily through the improvements to the current habitat conditions and stormwater quality. See Section X for Conditions of Approval.

2. The proposal includes plans for restoration of degraded critical area or critical area buffer functions which demonstrate a net gain in the most important critical area or critical area buffer functions to the ecosystem in which they exist;

Finding: Much of the stream buffer on-site is degraded through permanent

improvements (existing structure, driveway, lawn, etc.) and low levels of buffer functions identified and described in the CAR (Attachment 2). Coal Creek, a fish-bearing stream, is located on-site and the project was designed to improve degraded stream buffer conditions of this high-priority critical area and buffer. See Section X for conditions of approval.

3. The proposal includes a net gain in stormwater quality function by the critical area buffer or by elements of the development proposal outside of the reduced regulated critical area buffer;

Finding: The removal of non-native grasses, invasive species, and existing impervious surfaces, and replacement of those areas with dense native specimens will result in improved stormwater functions of filtration. Overall stormwater quality is expected to be improved.

4. Adequate resources to ensure completion of any required restoration, mitigation and monitoring efforts;

Finding: A five-year maintenance and monitoring plan has been included in the proposal. In addition to maintenance and monitoring activities, an assurance device associated with the maintenance and monitoring will be required as part of the Building Permit. See Section X for conditions of approval.

5. The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical area buffers off-site; and

Finding: The modifications and performance standards included in the proposal are not detrimental to off-site critical areas and buffers, and are expected to lead to improved buffer function for on-site and off-site stream critical areas and buffers. As noted in the Critical Areas Report the existing low level of functions provided by this site would continue without the buffer reduction and buffer enhancement plan. The stream functions will be enhanced with the proposed actions.

6. The resulting development is compatible with other uses and development in the same land use district. (Ord. 5680**, 6-26-06, § 3)**

Finding: The proposal does not change the underlying zoning or existing land use. The existing single-family residence will be demolished and replaced with this proposal.

B. Critical Areas Land Use Permit Decision Criteria 20.30P

The Director may approve or approve with modifications an application for a critical areas land use permit if:

1. The proposal obtains all other permits required by the Land Use Code;

Finding: The applicant will be required to apply for a Building Permit after the approval of the Critical Areas Land Use Permit. See Section X for conditions of approval.

2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

Finding: The proposal has been designed and located to minimize impacts to and improve critical area and buffer functions. The proposed single-family residence is located within an area of low buffer function due to existing improvements and degraded conditions. Locating the development as proposed has the least impact on the critical area and critical area buffer. The design includes the removal of an existing driveway and relocation of this activity to the opposite of the house from the stream. This design limits impacts from auto lights and other wildlife disrupting activities. Trees within the stream buffer will be preserved and protected during construction. See Section X for conditions of approval.

3. The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable, and ;

Finding: As discussed in Section III.B of this report, the proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable.

4. The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;

Finding: The site is currently served by adequate public facilities and no additional need is anticipated with this proposal.

5. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and

Finding: The proposal includes a mitigation plan that provides native planting consistent with LUC 20.25H.210. The plan also contains a five-year maintenance and monitoring plan to ensure successful establishment of installed planting. See Section X for condition of approval.

6. The proposal complies with other applicable requirements of this code.

Finding: As discussed in Section III and V of this report, the proposal complies with all other applicable requirements of the Land Use Code.

IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** the proposal to construct a 3,700 square-foot single-family residence at 52 Skagit Ky as shown on the proposed plans (Attachment 1).

Note- Expiration of Approval: In accordance with LUC 20.30P.150 a Critical Areas Land Use Permit automatically expires and is void if the applicant fails to file for a Clearing and Grading Permit or other necessary development permits within one year of the effective date of the approval.

X. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

Applicable Ordinances	Contact Person
Clearing and Grading Code- BCC 23.76	Janney Gwo, 425-452-6190
Land Use Code- BCC 20.25H	David Wong, 425-452-4828

The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:

1. Building Permit Required: Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. A Building Permit shall be required and approved. Plans consistent with those submitted as part of this permit application shall be included in the Building Permit application.

Authority: Land Use Code 20.30P.140
Reviewer: David Wong, Land Use

2. Mitigation Plan: A final mitigation plan in accordance with the conceptual mitigation plan provided under this application shall be submitted for review and approval by the City of Bellevue prior to issuance of the Building Permit. The conceptual plan shall be revised to reflect the work associated with the city's plans to replace the adjacent stream culvert. The plan shall document the total area of new critical area buffer planting and the plans shall be consistent with the guidance provided in the City's Critical Areas Handbook.

Authority: Land Use Code 20.25H.105.C.3
Reviewer: David Wong, Land Use

3. Maintenance & Monitoring: A maintenance & monitoring plan in conformance with the plan submitted under this application shall be submitted for review and approval by the City of Bellevue prior to issuance of the Building Permit. The mitigation plan shall be maintained and monitored for a minimum of five (5) years. Annual reporting shall be submitted at the end of each growing season or by December 1 for each of the five years this plan is applicable. All reporting shall be submitted by email to **dwong@bellevuewa.gov**. or by mail to:

Environmental Planning Manager
Development Services Department
City of Bellevue
PO Box 90012
Bellevue, WA 98009-9012

Authority: Land Use Code 20.25H.220.D, 20.25H.220.H
Reviewer: David Wong, Land Use

4. Maintenance and Monitoring Assurance Device: A financial surety is required to be submitted to ensure the mitigation planting successfully establishes. A maintenance assurance device that is equal to 100% of the cost of plants, installation, and the cost of monitoring is required to be held for a period of five years from the date of building permit issuance. A cost estimate is required to be provided with the building permit. The financial surety is required to be posted prior to building permit issuance. Release of the surety after the 5-year monitoring period is contingent upon a final inspection of the planting by Land Use Staff that finds the maintenance and monitoring plan was successful and the mitigation meets performance standards.

Authority: Land Use Code 20.25H.220.F
Reviewer: David Wong, Land Use

5. Rainy Season restrictions: Due to the proximity to a Type-F stream, no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A,
Reviewer: Janney Gwo, Clearing & Grading

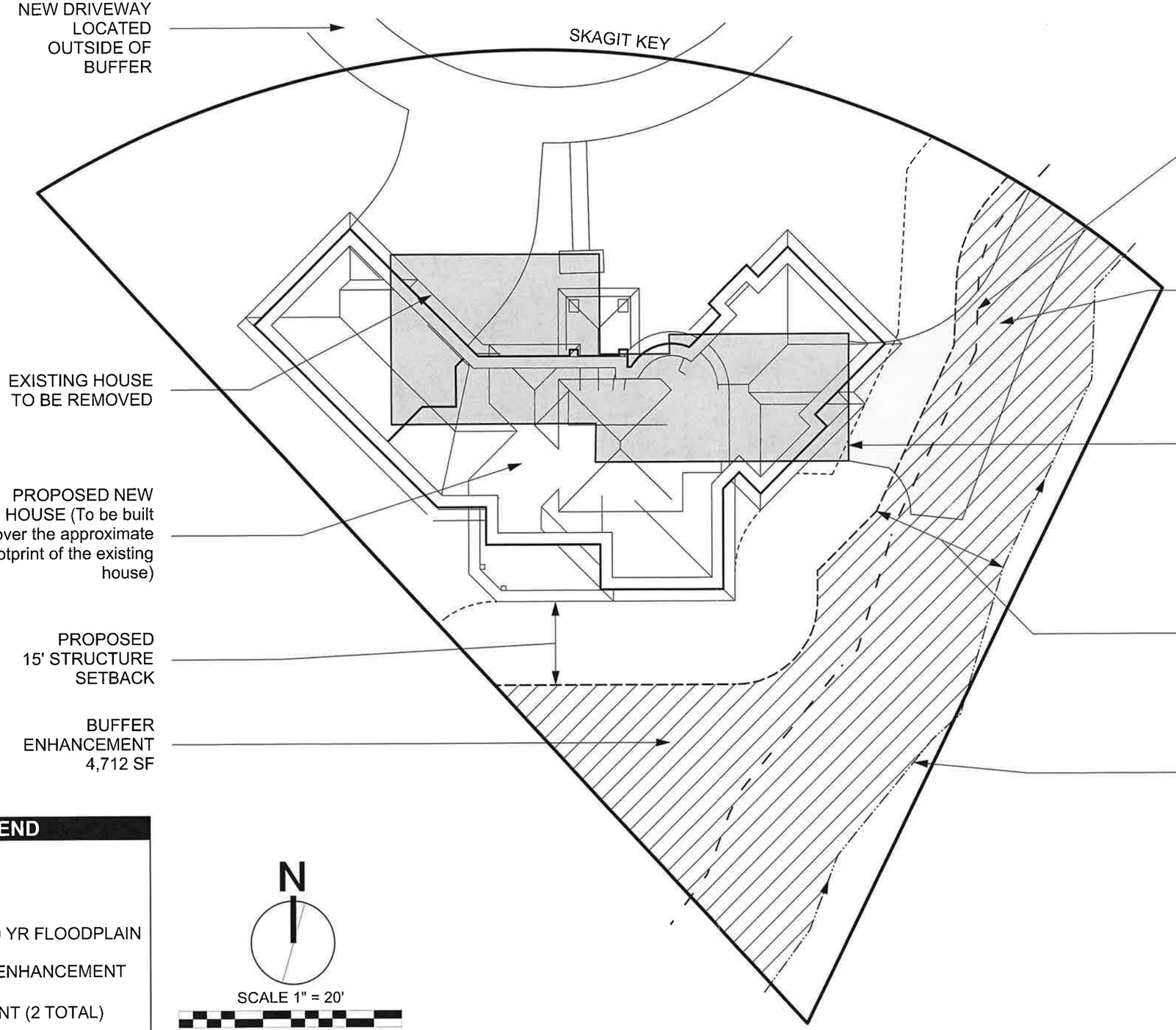
6. Pesticides, Insecticides, and Fertilizers: The applicant must submit as part of the required Building Permit information regarding the use of pesticides, insecticides, and fertilizers in accordance with the City of Bellevue's "Environmental Best Management Practices". Additionally, the applicant shall record an affidavit to the property title in

order to enforce compliance with City of Bellevue Environmental Best Practices for pesticide, insecticide, and fertilizer application.

Authority: Land Use Code 20.25H.220.H
Reviewer: David Wong, Land Use

7. Outdoor Lighting: No lighting along the eastern portion of the house will be approved due to limited width of the structure setback and stream buffer modification. All other outdoor lighting shall be shielded and directed away from the stream and stream buffer.

Authority: Land Use Code 20.25H.080
Reviewer: David Wong, Land Use



LEGEND

- STREAM
- BUFFER
- FEMA 100 YR FLOODPLAIN
- BUFFER ENHANCEMENT
- DP1 DATA POINT (2 TOTAL)

N

SCALE 1" = 20'

0 20 40

MAP SHEET: CA1.00

ACRE ENVIRONMENTAL CONSULTING, LLC

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CRITICAL AREA STUDY
& BUFFER MITIGATION MAP
ZHANG - 52 SKAGIT KEY
BELLEVUE, WA
TAX PARCEL NO. 0055230040 1403.

PREPARED FOR:
Baoping Zhang
52 Skagit Key
Bellevue, WA 98006

Acre Job: 17048
Drawn By: L. Emenhiser
Date: 12.13.2017
Rev #1 : 06.26.18